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SERVICE DATE - NOVEMBER 13, 2001

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34123]

B&H Rail Corp.—Lease and Operation Exemption—Livonia, Avon & Lakeville
Railroad Corporation and Norfolk Southern Railway Company

B&H Rail Corp. (B&H), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate two rail lines in Steuben County, NY, as follows: (1) B&H will acquire, by assignment, all of the contractual operating rights of Livonia, Avon & Lakeville Railroad Corporation (LAL) over an approximately 34.03-mile rail line that extends between approximately milepost 8.68, at Hammondsport, and approximately milepost 0.85, at Bath (which is also designated as approximately milepost 285.10), and from that point to approximately 311.3 in Wayland;¹ and (2) B&H will sublease from Norfolk Southern Railway Company (NSR) an approximately 17.08-mile connecting rail line that extends between approximately milepost 285.10, at Bath, and approximately milepost 268.02, at Painted Post.²

¹ The Steuben County Industrial Development Authority owns the 34.03-mile rail line (SCIDA line). LAL's operation of the SCIDA line was previously exempted by the Board in Livonia, Avon & Lakeville Railroad Corp.—Acquisition and Operation Exemption—Steuben County Industrial Development Agency, STB Finance Docket No. 32941 (STB served May 22, 1996). B&H states that it has operated the SCIDA line (under its former name, Conhocton Valley Railroad Corporation) as LAL's contract operator since January of 2001.

² The 17.08-mile rail line is owned by Pennsylvania Lines LLC, and currently operated by NSR.

The parties report that they intend to consummate the transaction on or soon after the effective date of the exemption. The earliest the transaction could be consummated was November 2, 2001 (7 days after the exemption was filed).

This transaction is related to STB Finance Docket No. 34124, Livonia, Avon & Lakeville Railroad Corporation—Continuance in Control Exemption—B&H Rail Corp., wherein LAL has concurrently filed a petition for exemption from the requirements of 49 U.S.C. 11323 to control B&H once B&H consummates the transaction in STB Finance Docket No. 34123 and becomes a Class III rail carrier. The stock of B&H has been placed in an independent, irrevocable voting trust pursuant to 49 CFR 1013 in order to avoid an unlawful control violation pending a Board decision in STB Finance Docket No. 34124.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34123, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, Esq., Kirkpatrick & Lockhart, LLP, 1800 Massachusetts Avenue, N.W., Second Floor, Washington, DC 20036.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: November 2, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary